

AMENDED IN ASSEMBLY MAY 17, 2007

AMENDED IN ASSEMBLY MAY 2, 2007

AMENDED IN ASSEMBLY APRIL 17, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1428

Introduced by Assembly Member Galgiani

February 23, 2007

An act to amend Section 2827.9 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1428, as amended, Galgiani. Energy: biogas digester and manure-fueled customer-generator pilot program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, electric service providers, as defined, are required to provide eligible customer-generators with net energy metering, as defined. Under existing law, electrical corporations are required to provide eligible biogas digester customer-generators, that commence operation by December 31, 2009, with net energy metering, as defined, under a pilot program.

This bill would include certain manure-fueled electrical generating facilities in the existing pilot program, which the bill would recast to apply to eligible customer-generators, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2827.9 of the Public Utilities Code is
2 amended to read:
- 3 2827.9. (a) (1) The Legislature finds and declares that a pilot
4 program to provide net energy metering for eligible biogas digester
5 and manure-fueled customer-generators would enhance the
6 continued diversification of California's energy resource mix and
7 would encourage the installation of livestock air emission controls
8 that the State Air Resources Board believes may produce multiple
9 environmental benefits.
- 10 (2) The Legislature further finds and declares that the net energy
11 metering pilot program authorized pursuant to this section for
12 eligible biogas digester and manure-fueled customer-generators,
13 which nets out generation charges against generation charges on
14 a time-of-use basis, furthers the intent of Chapter 7 of the Statutes
15 of 2001, First Extraordinary Session, by facilitating the
16 implementation of energy efficiency programs in order to reduce
17 consumption of energy, reduce the costs associated with energy
18 demand, and achieve a reduction in peak electricity demand.
- 19 (b) As used in this section, the following definitions apply:
- 20 (1) "Electrical corporation" means an electrical corporation, as
21 defined in Section 218.
- 22 (2) (A) "Eligible customer-generator" means a customer of an
23 electrical corporation that meets both of the following criteria:
- 24 (i) Uses an eligible electrical generating facility with a capacity
25 of not more than one megawatt that is located on or adjacent to
26 the customer's owned, leased, or rented premises, is interconnected
27 and operates in parallel with the electric grid, and is sized to offset
28 part or all of the eligible customer-generator's own electrical
29 requirements.
- 30 (ii) Is the recipient of local, state, or federal funds, or who
31 self-finances pilot projects designed to encourage the development
32 of eligible electrical generating facilities.
- 33 (B) Notwithstanding subparagraph (A), up to three large biogas
34 digester electrical generating facilities with a generating capacity
35 of more than one megawatt and not more than 10 megawatts,

1 otherwise meeting the criteria of this section, shall be eligible for
2 participation in the pilot program.

3 ~~(3) “Eligible electrical generating facility” means a generating~~
4 ~~facility used to produce electricity by either a manure methane~~
5 ~~production project, as a byproduct of the anaerobic digestion of~~
6 ~~biosolids and animal waste, or through thermal decomposition or~~
7 ~~other means of conversion of manure.~~

8 (3) *“Eligible electrical generating facility” means either of the*
9 *following:*

10 (A) *A biogas digester facility that generates electricity using a*
11 *manure methane production project or as a byproduct of the*
12 *anaerobic digestion of biosolids and animal waste.*

13 (B) *A manure-fueled facility that generates electricity using*
14 *thermal decomposition or other means for conversion of manure*
15 *into energy.*

16 (4) “Manure” means any substance composed primarily of
17 animal excrement, plant remains, or mixtures of those substances,
18 containing no municipal solid waste, producing no discharge to
19 surface or ground waters of the state, and containing or producing
20 no hazardous waste.

21 (5) “Net energy metering” means measuring the difference
22 between the electricity supplied through the electric grid and the
23 difference between the electricity generated by an eligible
24 customer-generator and fed back to the electric grid over a
25 12-month period as described in subdivision (e). Net energy
26 metering shall be accomplished using a time-of-use meter capable
27 of registering the flow of electricity in two directions. If the existing
28 electrical meter of an eligible customer-generator is not capable
29 of measuring the flow of electricity in two directions, the eligible
30 customer-generator shall be responsible for all expenses involved
31 in purchasing and installing a meter that is able to measure
32 electricity flow in two directions. If an additional meter or meters
33 are installed, the net energy metering calculation shall yield a result
34 identical to that of a time-of-use meter.

35 (c) Every electrical corporation shall file with the commission
36 a standard tariff providing for net energy metering for eligible
37 customer-generators, consistent with this section. Every electrical
38 corporation shall make this tariff available to eligible
39 customer-generators upon request, on a first-come-first-served
40 basis, until the combined statewide cumulative rated generating

1 capacity used by the eligible customer-generators in the service
2 territories of the three largest electrical corporations in the state
3 reaches 50 megawatts for eligible biogas digester facilities and 20
4 megawatts for any other eligible manure-fueled facilities. An
5 eligible customer-generator shall be eligible for the tariff for the
6 life of the eligible electrical generating facility.

7 (d) Each net energy metering contract or tariff shall be identical,
8 with respect to rate structure, all retail rate components, and any
9 monthly charges, to the contract or tariff to which the same
10 customer would be assigned if the customer was not an eligible
11 customer-generator, except as set forth in subdivision (e). Any
12 new or additional demand charge, standby charge, customer charge,
13 minimum monthly charge, interconnection charge, or other charge
14 that would increase an eligible customer-generator's costs beyond
15 those of other customers in the rate class to which the eligible
16 customer-generator would otherwise be assigned are contrary to
17 the intent of this legislation, and shall not form a part of net energy
18 metering tariffs.

19 (e) The net energy metering calculation shall be made by
20 measuring the difference between the electricity supplied to the
21 eligible customer-generator and the electricity generated by the
22 eligible customer-generator and fed back to the electric grid over
23 a 12-month period. The following rules shall apply to the
24 annualized metering calculation:

25 (1) The eligible customer-generator shall, at the end of each
26 12-month period following the date of final interconnection of the
27 eligible electrical generating facility with an electrical corporation,
28 and at each anniversary date thereafter, be billed for electricity
29 used during that period. The electrical corporation shall determine
30 if the eligible customer-generator was a net consumer or a net
31 producer of electricity during that period. For purposes of
32 determining if the eligible customer-generator was a net consumer
33 or a net producer of electricity during that period, the electrical
34 corporation shall aggregate the electrical load of an agricultural
35 operation under the same ownership, including, but not limited to,
36 the electrical load attributable to operating the agricultural
37 production facility, and water pumping located on property adjacent
38 or contiguous to the property on which the eligible electrical
39 generating facility is located. Each aggregated account shall be
40 billed and measured according to a time-of-use rate schedule.

1 (2) At the end of each 12-month period, where the electricity
2 supplied during the period by the electrical corporation exceeds
3 the electricity generated by the eligible customer-generator during
4 that same period, the eligible customer-generator is a net electricity
5 consumer and the electrical corporation shall be owed
6 compensation for the eligible customer-generator's net kilowatthour
7 consumption over that same period. The compensation owed for
8 the eligible customer-generator's consumption shall be calculated
9 as follows:

10 (A) The generation charges for any net monthly consumption
11 of electricity shall be calculated according to the terms of the tariff
12 to which the same customer would be assigned to or be eligible
13 for if the customer was not an eligible customer-generator. When
14 those eligible customer-generators are net generators during any
15 discrete time-of-use period, the net kilowatthours produced shall
16 be valued at the same price per kilowatthour as the electrical
17 corporation would charge for retail kilowatthour sales for
18 generation, exclusive of any surcharges, during that same
19 time-of-use period. If the eligible customer-generator's time-of-use
20 electrical meter is unable to measure the flow of electricity in two
21 directions, paragraph (4) of subdivision (b) shall apply. All other
22 charges, other than generation charges, shall be calculated in
23 accordance with the eligible customer-generator's applicable tariff
24 and based on the total kilowatthours delivered by the electrical
25 corporation to the eligible customer-generator. To the extent that
26 charges for transmission and distribution services are recovered
27 through demand charges in any particular month, no standby
28 reservation charges shall apply in that monthly billing cycle.

29 (B) The net balance of moneys owed shall be paid in accordance
30 with the electrical corporation's normal billing cycle.

31 (3) At the end of each 12-month period, where the electricity
32 generated by the eligible customer-generator during the 12-month
33 period exceeds the electricity supplied by the electrical corporation
34 during that same period, the eligible customer-generator is a net
35 electricity producer and the electrical corporation shall retain any
36 excess kilowatthours generated during the prior 12-month period.
37 The eligible customer-generator shall not be owed any
38 compensation for those excess kilowatthours.

39 (4) If an eligible customer-generator terminates service with
40 the electrical corporation, the electrical corporation shall reconcile

1 the eligible customer-generator's consumption and production of
2 electricity during any 12-month period.

3 (f) No eligible electrical generating facility shall be eligible for
4 participation in the tariff established pursuant to this section, that
5 has not commenced operation by December 31, 2009. An eligible
6 customer-generator shall be eligible for the tariff established
7 pursuant to this section, only for the operating life of the eligible
8 electrical generating facility.

9 (g) No electrical generating facility that is subject to the best
10 available control technology (BACT) requirements shall be eligible
11 for participation in the tariff pursuant to this section unless the
12 electrical generating facility has installed the best available control
13 technology as required by the applicable air pollution control
14 district or air quality management district at the time of installation
15 to ensure the maximum feasible reductions in toxic and criteria
16 pollutants.

17 (h) On or before December 31, 2008, the commission, in
18 collaboration with the State Air Resources Board, shall report to
19 the Legislature all of the following information:

20 (1) The impact of the pilot program on emissions of air
21 pollutants.

22 (2) The impact of the pilot program on the reliability of the
23 transmission and distribution grid.

24 (3) The impact of the pilot program on ratepayers.